

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
302 W. WASHINGTON STREET, SUITE E-306
INDIANAPOLIS, INDIANA 46204-2764

<http://www.state.in.us/iurc/>
Office: (317) 232-2761
Facsimile: (317) 232-6758

SEP 03 2004

SUBMISSION OF INDIANA BELL)
TELEPHONE COMPANY, INCORPORATED)
D/B/A SBC INDIANA FOR COMMISSION)
RECOGNITION OF AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT ARRIVED)
THROUGH VOLUNTARY NEGOTIATIONS)
WITH SAGE TELECOM, INC.)

INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 41268-INJ123

You are hereby notified that on this date the Presiding Officers in this Cause make the following Entry:

On June 9, 2004, we issued an Entry in this Cause directing Indiana Bell Telephone Company, Incorporated d/b/a SBC Indiana ("SBC Indiana") and Sage Telecom, Inc. ("Sage") to submit, within ten days, their entire interconnection agreement, which SBC Indiana and Sage contend is not, in its entirety, an interconnection agreement subject to the requirements of the federal Telecommunications Act of 1996 ("Act"). On June 17, 2004, pursuant to 170 IAC 1-1.1-4, these parties filed with the Indiana Utility Regulatory Commission ("Commission") the *Joint Petition of Sage Telecom, Inc. and SBC Indiana for Confidential and Proprietary Treatment of Certain Portions of Their "Private Commercial Agreement for Local Wholesale Complete"* ("Petition for Confidential Treatment"). Accompanying the Petition for Confidential Treatment were the Affidavits of both Robert W. McCausland, Vice President of Regulatory Affairs for Sage, and Michael Auinbauh, Assistant Vice President of Local Interconnection Marketing for SBC Telecommunications, Inc.

The Petition for Confidential Treatment asserted that the Private Commercial Agreement for Local Wholesale Complete ("Agreement"), executed on April 21, 2004, between Sage and SBC Indiana contains certain specified portions that constitute confidential trade secret information, and requested that the Commission issue a protective Order or Entry finding that certain specified information within the Agreement, while it is being reviewed by the Commission for purposes of ruling on the Petition, is exempt from public disclosure pursuant to the trade secret exception to disclosure found at Ind. Code §§ 5-14-3-4 and 24-2-3-2.

In furtherance of ruling on the Petition for Confidential Treatment, an Entry was issued on June 24, 2004, scheduling an *in camera* inspection for July 7, 2004. At the *in camera* inspection, SBC Indiana and Sage presented five (5) unredacted copies of the Agreement for the Presiding Officers and Commission staff to review. These five (5)

copies of the Agreement were returned to SBC Indiana and Sage later that same day and the record of the *in camera* inspection was closed.

To assist in our ruling on the Petition for Confidential Treatment, pursuant to 170 IAC 1-1.1-4 and Ind. Code 5-14-3, the Presiding Officers have determined that a second *in camera* inspection should be conducted for the purpose of allowing the Presiding Officers and assigned Commission staff to reexamine the Agreement and, if necessary, to ask questions of SBC Indiana and/or Sage regarding the Agreement. In our consideration of the Agreement, and since the first *in camera* inspection, some issues have arisen that we can only most accurately resolve by being able to reexamine the entire Agreement.

Therefore, an *in camera* inspection is scheduled to commence on September 20, 2004, at 9:00 a.m. EST, in Room E306 of the Indiana Government Center South, Indianapolis Indiana. The commencement of the *in camera* inspection will be open to other parties and to the public. After opening the record of the *in camera* inspection, SBC Indiana and/or Sage should, pursuant to 170 IAC 1-1.1-4(c), make available on a provisional basis, for the limited purpose of determining its confidentiality, the information for which confidential treatment has been requested. As was the case in the first *in camera* inspection, it is our expectation that five (5) copies of the entire, unredacted Agreement will be presented to the Presiding Officers with the portions for which confidential treatment is sought clearly identified. Upon receipt of the Agreement, the *in camera* inspection will be continued to September 23, 2004. Thus, the September 20, 2004 commencement of the *in camera* inspection should be a very brief event.

The Presiding Officers will distribute the five (5) copies of the Agreement among themselves and Commission staff assigned to this proceeding with instruction not to make copies of the information for which confidential treatment is sought and to neither share nor discuss the information for which confidential treatment is sought with other persons, except among themselves and, as necessary, with other Commission staff for the purpose of obtaining information relevant to the Presiding Officers' determination as to confidentiality. In addition, the Presiding Officers and Commission Staff who have copies of the Agreement should ensure that the Agreement is maintained in a secure location at all times while it is in their possession.

The *in camera* hearing will reconvene on September 23, 2004, at 3:00 p.m. EST, in Room E306 of the Indiana Government Center South, Indianapolis, Indiana, and will, at least for the start thereof, be open to other parties and to the public. If the Presiding Officers have no questions for Sage or SBC Indiana regarding the Agreement, the five (5) copies of the Agreement will be returned to Sage and/or SBC Indiana and the record of the *in camera* inspection will be closed. If the Presiding Officers have questions for Sage or SBC Indiana regarding the Agreement that can be asked and answered without revealing any claimed confidential information, then the proceeding will continue to be open to other parties and to the public. If the Presiding Officers have questions for Sage or SBC Indiana regarding the Agreement that can only be asked and/or answered by revealing claimed confidential information then that portion of the proceeding will be conducted *in camera*, which is to say that all parties and any other persons will be


excluded from that *in camera* questioning portion of the proceeding except for Sage, SBC Indiana, and Commission employees. At the end of any public and/or *in camera* questioning, the five copies of the Agreement will be returned to Sage and/or SBC Indiana, and the record of the *in camera* inspection will be closed.

During any part of the *in camera* proceeding, other parties will not be permitted to question SBC Indiana or Sage regarding the Agreement and no party will be permitted to present argument regarding the Agreement. Pursuant to 170 IAC 1-1.1-4, parties were given the opportunity to present, and did present, argument regarding the Agreement during the *in camera* inspection on July 7, 2004. The purpose of this second *in camera* inspection is to ensure that the Presiding Officers and Commission staff have an accurate recollection and understanding of certain portions of the Agreement. This information is necessary for our determination, pursuant to 170 IAC 1-1.1-4, Ind. Code 5-14-3, and Ind. Code 24-2-3-2, as to whether or not the claimed confidential information constitutes a disclosable public record.

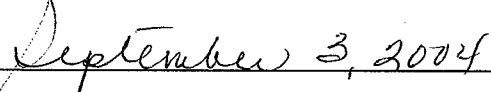
IT IS SO ORDERED.



Judith G. Ripley, Commissioner



William G. Divine, Administrative Law Judge



Date